

REMARKS

Applicant notes initially that a request to suspend prosecution has been requested with the Request for Continued Examination filed concurrently herewith. Accordingly, this case should not be taken up for further examination until expiration of the suspension period. Applicant intends to present additional claims and possibly conduct an Interview with the Examiner during the suspension period.

Turning to the outstanding final Office Action, Claims 1, 3-5, 8, and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Miao, Claim 6 stands rejected under 35 U.S.C. § 103(a) as being obvious over Miao in view of Chen, and Claims 7 and 10-22 stand rejected under 35 U.S.C. § 103(a) as being obvious over Miao in view of Strawn.

Applicant respectfully traverses the rejections.

The rejection alleges that at column 4, lines 10-13, Miao discloses Applicant's claimed packet delay variance measurement, wherein the packet delay variance measurement includes monitoring, for the at least one period of time, a buffer depth of the buffer, the buffer depth being a temporal measurement of a delay that a data packet encounters from when the data packet is received by the buffer to when the data packet is serialized, as recited in

independent Claim 1. (Office Action, p. 4). However, the relied upon portion of Miao merely discloses that the buffer size (i.e., buffer delay) is based on the value of the delay variation σ of the network delay. Such disclosure does not teach or suggest monitoring of a depth or delay of a buffer.

Furthermore, as noted in the Amendment filed June 20, 2008 in the instant application, Maio does not monitor the buffer depth. Rather, Maio sets and updates an additional delay t_a for a buffer based on a determined network delay t_n and an optimal delay t_{ed} . See, e.g., Maio, col. 5, lines 4-19. The determined network delay t_n is used to calculate a "new" probability distribution, and the new probability distribution is used to arrive at a "new" optimal delay t_{ed} . *Id.*, col. 6, lines 16-35. At no point does Maio disclose changing the buffer depth based on monitoring of the buffer depth.

For reasons similar to those discussed above for Claim 1, Maio fails to teach or suggest "measuring buffer depth over a period of time" and "periodically measuring buffer depth" (emphasis added), as recited in independent Claims 10 and 20, respectively.

The Strawn and Chen references, which were applied as secondary references, also fail to teach or suggest the foregoing features of independent Claims 1, 10, and 20.

Accordingly, Claims 1, 10, and 20 and their respective dependents distinguish patentably from Maio, Strawn, and Chen, whether taken individually or in combination.

In view of the foregoing, withdrawal of the rejections is respectfully requested.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (A-10046) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

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